

REMARKS SECTION

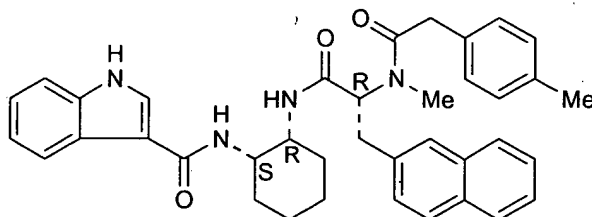
REMARKS

Reconsideration and reexamination is respectfully requested. The indication of allowable subject matter is acknowledged with appreciation. Claims 1, 2, 4, 6, 7, 10 and 11 have been amended above. No new matter is being added by these amendments. Due to amendments in claim 1 and 2, claim 3 has been cancelled accordingly.

Claims 1, 2, 4, 6, 7, 10 and 11 have been amended to remove the non-elected subject matter as described on page 3 of the Office Action. However, the restriction for ring B to 6-8 cyclohexyl was not understood and clarification is respectfully requested. In addition, restriction of R^5 to H is respectfully traversed. It is respectfully requested that the scope as defined on page 3 of the Office Action be expanded to cover R^5 as R^5 is a substituent off of ring B. Additionally, claim 11 has been amended to correct the name of two compounds. These are the names for Example 132 and 133. Support for these amendments may be found in Table 1.

Claims 1-12 were rejected under Section 102(b) for being anticipated by Cutrufo et al. as described on page 3 of the Office Action. The present invention is directed to compounds of formula(I) wherein, in relevant part, Z is a $-CO-$ (amongst others), and R^2 is selected from aryl and heteroaryl (in relevant part), and R^{10} and R^{10a} are H.

By contrast, Cutrufo et al. discloses the following compound:



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The compound of Cutrufo et al. has a methylene group between the carbonyl and phenyl (corresponding to Z and R² as defined in the instant invention, respectively) and has a -(CH₂)-naphthalene (corresponding to R¹⁰, R^{10a} as defined in the instant invention). Because Cutrufo et al. does not disclose the invention as claimed in Claim 1 and its dependent claims, withdrawal of the Section 102 rejection is respectfully requested.

Claims 1-12 were rejected under double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,706,712 described in page 3-4 of the Office Action. Both Patent No. 6,706,712 and the instant invention were subject to restriction requirement. The instant invention as amended based on the defined inventive concept does not overlap with the claims of the '712 patent. Therefore, a double patenting rejection is inappropriate. Withdrawal of the double patenting rejection is respectfully requested.

Claims 1-12 were objected for containing non-elected subject matter. In light of the above amendments to the claims, applicants request the Examiner withdraw the objections as they are now moot.

Rejoinder of Claims 13-26 is respectfully requested pursuant to MPEP 821.04:

[I]f applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

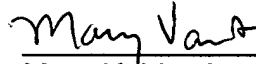
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Because the process claims depend from the allowed product claims, rejoinder is respectfully requested.

The application is now believed to be in condition for allowance and notification thereof is respectfully requested.

Respectfully submitted,

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